

§ 18.104

or motion to strike appears of record, stating the specific ground of objection, if the specific ground was not apparent from the context; or

(2) *Offer of proof.* In case the ruling is one excluding evidence, the substance of the evidence was made known to the judge by offer or was apparent from the context within which questions were asked. A substantial right of the party is affected unless it is more probably true than not true that the error did not materially contribute to the decision or order of the judge. Properly objected to evidence admitted in error does not affect a substantial right if explicitly not relied upon by the judge in support of the decision or order.

(b) *Record of offer and ruling.* The judge may add any other or further statement which shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon. The judge may direct the making of an offer in question and answer form.

(c) *Plain error.* Nothing in this rule precludes taking notice of plain errors affecting substantial rights although they were not brought to the attention of the judge.

§ 18.104 Preliminary questions.

(a) *Questions of admissibility generally.* Preliminary questions concerning the qualification of a person to be a witness, the existence of a privilege, or the admissibility of evidence shall be determined by the judge, subject to the provisions of paragraph (b) of this section. In making such determination the judge is not bound by the rules of evidence except those with respect to privileges.

(b) *Relevance conditioned on fact.* When the relevancy of evidence depends upon the fulfillment of a condition of fact, the judge shall admit it upon, or subject to, the introduction of evidence sufficient to support a finding of the fulfillment of the condition.

(c) *Weight and credibility.* This rule does not limit the right of a party to introduce evidence relevant to weight or credibility.

§ 18.105 Limited admissibility.

When evidence which is admissible as to one party or for one purpose but not

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admissible as to another party or for another purpose is admitted, the judge, upon request, shall restrict the evidence to its proper scope.

§ 18.106 Remainder of or related writings or recorded statements.

When a writing or recorded statement or part thereof is introduced by a party, an adverse party may require the introduction at that time of any other part or any other writing or recorded statement which ought in fairness to be considered contemporaneously with it.

OFFICIAL NOTICE

§ 18.201 Official notice of adjudicative facts.

(a) *Scope of rule.* This rule governs only official notice of adjudicative facts.

(b) *Kinds of facts.* An officially noticed fact must be one not subject to reasonable dispute in that it is either:

(1) Generally known within the local area,

(2) Capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned, or

(3) Derived from a not reasonably questioned scientific, medical or other technical process, technique, principle, or explanatory theory within the administrative agency's specialized field of knowledge.

(c) *When discretionary.* A judge may take official notice, whether requested or not.

(d) *When mandatory.* A judge shall take official notice if requested by a party and supplied with the necessary information.

(e) *Opportunity to be heard.* A party is entitled, upon timely request, to an opportunity to be heard as to the propriety of taking official notice and the tenor of the matter noticed. In the absence of prior notification, the request may be made after official notice has been taken.

(f) *Time of taking notice.* Official notice may be taken at any stage of the proceeding.

(g) *Effect of official notice.* An officially noticed fact is accepted as conclusive.